EXHIBIT H
USCG Findings

Summary

The U.S. registered F/V AVA CLAIRE (O.N. 547315) and a ship, which was not immediately identified, collided at approximately 1230Q (all times are local unless otherwise noted), 22 May 2004. The collision occurred in the Atlantic Ocean on the high seas in approximate position 40° 32.0' N, 071° 41.7' W, which is approximately 30 nautical miles (NM) SSE of Montauk Point, Long Island. This position is within 1 NM of the inbound lane of the Ambrose – Nantucket Safety Fairway, which is commonly used by ships approaching the Port of New York/New Jersey from ports located in Northern Europe or those in the northeast United States or eastern Canada. At the time of the collision, the AVA CLAIRE, which was struck on the starboard side, was engaged working weighted gill nets while fishing for monk fish and was on a northerly heading; the ship was underway on a westerly course.

The AVA CLAIRE was cut in two by the force of the collision. The aft half of the vessel sank soon after the collision; the forward half was seen afloat on 23 May. The three crewmembers on the AVA CLAIRE were forced into the water as the aft half of the vessel sunk below the surface of the water. The crew did not have time to make a distress call nor were they able to recover the EPIRB prior to abandoning the vessel. They subsequently were able to enter the liferaft, which deployed automatically. They later donned immersion suits after the master reentered the water and recovered them from the forward half of the vessel. The crew was safely rescued from the liferaft by a Coast Guard helicopter at approximately 1530Q.

After the collision, the ship that struck the AVA CLAIRE did not stop to render assistance, but continued on without any apparent change in course or speed.

The weather at the time of the collision had reduced visibility to between approximately 100 and 200 yards by heavy fog. Winds were calm. Seas were also reported as calm with swells less than a foot. No precipitation was reported.

The AVA CLAIRE was a U.S.-flag documented, 38 foot, 18 gross ton, uninspected commercial fishing vessel. The vessel was required to be equipped and operated in accordance with the requirements for uninspected commercial fishing vessels in 46 C.F.R. Subchapter C. Niantic Fish LLC was the vessel's documented owner and operator.

Findings of Fact

Pre-collision / Collision – F/V AVA CLAIRE

1. The AVA CLAIRE got underway from Shaw's Cove in the Port of New London, Connecticut at approximately 0300Q on 22 May 2004. The purpose of the voyage was to work four sets of weighted gill nets that had been set to the north of the inbound lane of the Ambrose – Nantucket Safety Fairway on 17 May 2004. There were three persons in the vessel's crew [redacted] who is the owner

of Niantic Fish LLC and was serving as the vessel's master [redacted] for whom this was his fifth consecutive trip aboard the vessel; and [redacted] for whom this was his second trip on the vessel. None of the crewmembers held a Coast Guard merchant mariner's license or document. Both [redacted] stated that they had several years of experience working in various capacities on commercial fishing vessels. [redacted] experience includes serving as master of his other boat, the ERIC RICHARD. [redacted] experience on commercial vessels was limited to his service on the AVA CLAIRE, although he stated he did have extensive experience operating small recreational vessels.

2. According to both [redacted] the transit to the area where the vessel's fishing gear was set, which was approximately 30 NM south of Montauk Point, New York required approximately 6 hours to complete. [redacted] estimated that the transit required between six and half to seven hours. The distance from Shaw's Cover to the area where the gear was set was approximately 50 NM. None of the crew recalled checking the time when they arrived on the grounds.

3. According to both [redacted] and [redacted] it is not uncommon for commercial fishing vessels to fish in the vicinity of the shipping lanes, i.e., the safety fairway.

4. The typical string of nets worked by the AVA CLAIRE was approximately 6,000 feet long. Each string consisted of approximately 20 nets that were each 300 feet in length. The individual nets were connected at the top and bottom by a bridle that was tied. According to [redacted] the number of nets in each string could vary with a short string being made up of 18 nets and a long string consisting of 23 nets. The orientation of the nets was east/west. According to [redacted] the first string was set on the 43610 LORAN-C TDY line, the second string was set on the 43608 LORAN-C TDY line, and the third and fourth strings were each set on the 42606 LORAN-C TDY line. In the area where the nets were set south of Montauk Point, these lines are north of the northern limit of the safety fairway. In general, each string was set so that they generally formed a continuous line. The depth of water in this area is approximately 210 feet.

5. The location of the end of each string was marked with a 'high-flier.' A high-flier is a pole that is approximately 10 – 15 feet long to which the anchor line for the net is fastened. There is a float located 1 – 2 feet above where the anchor line is fastened and a radar reflector on the top. The bottom of each net is weighted so that when set it is at or near the bottom.

6. Upon arriving on the grounds, the crew began to work the first of four strings of nets, which was the western most string. The string, which was worked from west to east, was brought aboard using a hauler located approximately amidships on the AVA CLAIRE's starboard side. According to [redacted] the vessel's heading ranged between east (090° T) and north-east (045° T) while hauling nets.

7. According to [redacted] it took between approximately two and two and a half-hours to haul and set the first string of nets. [redacted] estimated that it took approximately three hours to haul and set this string of nets [redacted] estimated that it took approximately one and a half hours. All three crewmembers estimated that approximately 15 minutes passed from the time they finished working the first string of nets and when they began working the second string.

8. [redacted] was able to observe the radar, which was located on the overhead of the wheelhouse in the vicinity of the wheel, while working the hauler. However, in order to mark contacts, change scales or otherwise adjust the display required [redacted] to go either over or under the table on which the net was laid after coming off the hauler and enter the wheelhouse through a door located in the aft bulkhead. The radar was usually set on the 6 NM scale when they were working gear. The radar provided a 'heads up' display only, which means that the indicated position of contacts on the screen would change based on the heading of the AVA CLAIRE. According to [redacted] when they were halfway through hauling the second set he noticed a contact on the radar that was approximately 6 NM ahead of the AVA CLAIRE. [redacted] stated that the AVA CLAIRE was on an easterly heading when the contact was first observed. This means that the contact was to the east of AVA CLAIRE.

9. [redacted] watched the contact on the radar while they continued to work the second set. After some period of time, he could not recall just how long, [redacted] changed the scale to 3 NM and observed that the contact was less than 3 NM ahead of the AVA CLAIRE. He continued to monitor the contact while also helping work the second set. When he saw that the contact was less than 1.5 NM ahead of the AVA CLAIRE he told [redacted] to untie the bottom bridle and he began untying the upper bridle.

10. According to [redacted] and [redacted] they were halfway through hauling the second set of nets when the collision occurred. [redacted] also stated he thought that they had been working the second set for approximately 45 minutes when the collision occurred. [redacted] stated that they may have been working the second set for about 30 minutes prior to the collision. Neither [redacted] nor [redacted] said that they looked at a watch or clock while they were working the nets.

11. After untying the top bridle, [redacted] went into the wheelhouse, turned the AVA CLAIR to the north and put it full ahead. While doing this he looked over his shoulder and saw that a large ship with a blue hull was almost on top of the AVA CLAIRE. [redacted] let out a shout and immediately headed aft.

12 [redacted] stated that the ship's bulwarks appeared to slant back at the forecastle.

13. Upon hearing [redacted] shout, both [redacted] stated that they looked up and saw the bow of a ship. [redacted] also said that the hull was blue; he added that it was definitely not black.

14. [redacted] stated that the radio on AVA CLAIRE was set to monitor Ch 13 and 16 VHF-FM. He also stated that prior to collision he thought about trying to call the other vessel on the radio but decided not to. He further stated that he did not hear any calls on the radio.

15. According to [redacted] and [redacted] the AVA CLAIRE was displaying the proper lights for a vessel underway fishing. Both stated that the AVA CLAIRE was not sounding signals. None of the crewmembers heard any sound signals from another vessel either before or after the collision.

16. While heading aft [redacted] stopped to get the EPIRB, which was located on the bulkhead on the port side inside the deckhouse. He stated that when he turned around the bulkhead and the EPIRB were gone. He also said that he could not see the forward end of the vessel. According to [redacted] and [redacted] the AVA CLAIRE was struck in the way of the registration numbers.

17. All three members of the AVA CLAIRE crew were on the aft section of the vessel after the collision. They stated that they could see the hull of the other ship going by and that soon after it passed the aft section of the AVA CLAIRE sank and they were in the water. The crew estimated that they could see the other ship for approximately 5 seconds before it disappeared into the fog. All three crewmembers stated that the superstructure was located aft and was white in color.

18. According to [redacted] the side and transom of the ship was light blue and that the bottom was red. He further stated that he could see containers on the deck and that he saw a 'new style' lifeboat on the stern. According to [redacted] the lifeboat was international orange. He clarified what he meant by 'new style' lifeboat to mean a lifeboat located on the stern rather than one located on the side of the superstructure.

19. Schober was the only member of the AVA CLAIRE crew who reported seeing any kind of markings on the hull of the other ship. He stated that he thought he saw the words "Port Elizabeth" on the stern.

20. Very soon – within minutes - after going into the water the crew saw the liferaft inflate. Upon seeing the liferaft inflate, they swam toward it. [redacted] estimated that they were in the water for approximately 5 – 10 minutes before they entered the liferaft.

21. The crew began to paddle through the debris field after entering the liferaft. They located the forward section of the AVA CLAIRE and paddled toward it. After some discussion over a period estimated to be approximately 15 minutes, [redacted] went into the water and then reached into the forward section of the AVA CLAIRE through a bow hatch to retrieve three immersion suits (1 new suit and 2

old suits were recovered). After getting these suits he reentered the liferaft. The crew then all donned immersion suits.

22. The crew of the AVA CLAIRE stated that after they were in the liferaft they heard what they thought was a ship passing them. They determined it was a ship based on the noise that they heard; they did not see it nor were they able to determine its bearing from the liferaft.

23. While paddling through the debris field the crew located the AVA CLAIRE's EPIRB. [redacted] and [redacted] all reported that the EPIRB was floating free and that both the red light and strobe on the top were on when they found it; [redacted] also reported that the antenna was broken off. The crew pulled the EPIRB from the water and put it into the liferaft. [redacted] stated he then manually activated the EPIRB.

EPIRB and Rescue Details

24. A 406 MHz signal from an EPIRB with a beacon identification of ADEC0 216FD 41801 was first detected by the COSPAS-SARSAT System at 1237Q/1637Z and was reported to CGD1 (First Coast Guard District) at 1241Q/1641Z. According to the USMCC registration database, the EPIRB with this beacon identification was made by ACR Electronics and was registered as being onboard the AVA CLAIRE (O.N. 547315). Based on registration data, this was a Category 2 (manual activation) EPIRB.

25. According to information provided by ACR Electronics, the beacon identification (ADEC0 216FD 41801) was for an ACR RLB-32, Cat. II EPIRB. According to ACR Electronics, the RLB-32 activation system will turn the beacon on when the EPIRB is out of its bracket and it is floating in the water.

26. At 1239Q / 1639Z the beacon was detected by a COSPAS-SARSAT satellite in position 40° 32.0' N, 071° 41.7' W. This was reported to CGD1 at 1258Q / 1658Z. Based on information obtained from subsequent passes of COSPAS-SARSAT satellites the beacon was determined to be in the following positions:

Time	Latitude	Longitude
1320Q / 1720Z	40° 32.5' N	071° 40.4' W
1408Q / 1808Z	40° 32.3' N	071° 40.0' W
1423Q / 1823Z	40° 32.3' N	071° 39.9' W

27. The decision to launch a helicopter from Coast Guard Air Station Cape Cod was made after initial efforts to contact the vessel were unsuccessful. The Coast Guard helicopter 6032 (CG6032) was reported airborne at 1345Q / 1745Z and was on scene at the last known position of the EPIRB at 1430Q / 1830Z. The helicopter crew reported that there was approximately a 100 foot ceiling with less than a quarter NM of visibility on scene. The helicopter crew also reported seeing

numerous pieces of debris, including high-fliers, on scene. They further reported that no vessels were seen in the area.

28. The liferaft was located by CG6032 at approximately 1510Q / 1910Z in approximate position 40° 32' N, 071° 39' W. By 1530Q / 1930Z the crew of the AVA CLAIRE had been safety hoisted into the helicopter. CG6032 landed at Air Station Cape Cod at 1622Q / 2022Z.

Identifying Vessels of Interest

29. Given the location where crew of the AVA CLAIRE were rescued and information provided by the vessel's crew when they were interviewed by Coast Guard investigating officers from Marine Safety Field Office Cape Cod, it was determined that the other vessel was most likely an ocean going vessel inbound to the Port of New York / New Jersey.

30. A list of potential vessels of interest was established using notice of arrival information and Automatic Identification System (AIS) data. The Coast Guard is recording AIS data as part of an ongoing project to establish a national infrastructure for collecting and distributing information to enhance maritime domain awareness, which is the effective understanding of anything in the marine environment that could adversely affect America's security, safety, economy, or environment. This project is being conducted under the authority of the Maritime Transportation Security Act (MTSA) of 2002 (46 U.S.C. § 70113), which directed the Coast Guard to "implement a system to collect, integrate, integrate, and analyze information concerning vessels operating on or bound for waters subject to the jurisdiction of the United States."

31. Three vessels were initially identified as potential vessels of interest: the GULD FALK (IMO No. 9263708); the PODRAVINA (IMO No. 9171321); and the NORASIA ALYA (IMO No. 9237486). Based on AIS data the approximate positions of these vessels at approximately 1233Q / 1633Z and their approximate bearing and range from the first reported position of the AVA CLAIRE's EPIRB, based on a signal received at 1239Q / 1639Z was as follows:

Vessel	Latitude	Longitude	Bearing and Range from EPRIB
GULD FALK	40° 32.0' N	071° 20.1' N	091° T / 16.5 NM
PODRAVINA	40° 31.5' N	071° 42.5' N	210° T / 1 NM
NORASIA ALYA	40° 32.5' N	071° 38.2' N	081° T / 2.5 NM

Based on the positions of these vessels, the two vessels most likely to have been in a position to have potentially collided with the AVA CLAIRE were the PODRAVINA and the NORASIA ALYA. Insofar as the GULD FALK's speed was approximately 15 knots, which was determined based on information

received from its AIS unit, it would not have been in the vicinity of the first reported position of the EPIRB until after 1330Q / 1730Z, or approximately an hour after the first EPIRB signal was detected. The NORASIA ALYA was transiting at approximately 22 knots and the PODRAVINA was transiting at approximately 13 knots.

32. Based on a review of advance notices of arrival for the Port of New York / New Jersey, it was determined, based on the last ports of call, that any other vessels that might fit the description provided by the crew of the AVA CLAIRE would have arrived from the south and would have not transited the area where the collision occurred.

33. [redacted] and [redacted] reported that the vessel that collided with the AVA CLAIRE was a container ship with a bull hull, white superstructure, and red bottom. They also reported that the ship had a life boat on the stern and that the bulwarks appeared to slant back. [redacted] stated he saw the words "Port Elizabeth" on the vessel's stern. The description provided by the AVA CLAIRE's crew was compared to photographs obtained from multiple sources and summarized below.

Characteristic	GULD FALK	PODRAVINA	NORASIA ALYA
Vessel Type	Tank ship	Tank ship	Container ship
Hull Color	Black	Black	Blue
Superstructure Color	White	White	White
Bottom Color	Red	Red	Red
Location of Lifeboat	Side launch	Stern launch	Stern launch
Reverse slanted bulwarks (see Note)	No	No	Yes
Words "Port Elizabeth" on stern (see Note)	Not known	No	No
Note: The last two characteristics were provided by members of the crew when asked if there was anything else they remembered about the vessel that collided with the AVA CLAIRE.			

Based on this comparison the NORASIA ALYA most closely matches the description provided by the crew of the AVA CLAIRE of the vessel that collided with them.

34. Coast Guard personnel conducted a visual examination on 23 May 2004 of the NORASIA ALYA while it was moored in Port Elizabeth, New Jersey. The Coast Guard personnel sighted numerous scrapes on the vessel's bulbous bow and the hull from the waterline up to approximately 15 feet above the waterline on both sides of the hull. They also noted there were various colored scrapes on both

sides of the hull in this area: the highest scrapes were white, scrapes just above the waterline were black, and there was green on the top of the bulbous bow and the lowest scrapes on the hull. It was also observed that the pattern of the scrapes and the color distribution was almost symmetrical on the port and starboard sides of the hull. The Coast Guard investigators also found, and obtained a chip of green paint from the top of the bulbous bow that had fiberglass fibers embedded on one side.

35. The Coast Guard personnel boarded the NORASIA ALYA and asked the Master, [redacted] to show them the vessel's track for the approach to New York on 22 May 2004. When this information was pulled up on the vessel's Electronic Chart Display and Information System (ECDIS) unit it immediately became apparent that the NORASIA ALYA had passed very close to the position where the crew of the AVA CLAIRE had been rescued.

36. The Master acknowledged having heard on the radio that there had been a collision and plotted the broadcast position on the ship's navigational chart. This position was within 2 NM of the ship's 1230 position (the time of this position was originally labeled as 1330; a note on the chart indicated that this was an error). He denied that the NORASIA ALYA had been in a collision while enroute the Port of New York / New Jersey.

37. According to the NORASIA ALYA's deck officers, the only ships in the area were the PODRAVINA, which was ahead and transiting the inbound safety fairway, and the GULD FALK, which was astern and also transiting the inbound safety fairway. This information was determined based on the AIS information displayed on the ECDIS. They had not observed any other contacts on the ship's radar, nor did they see or hear any other vessels in the area. The crew reported the fog was so thick they could not see the ship's bow.

38. The Master indicated that they altered course to the northwest in order to overtake the PODRAVINA.

39. Photographs taken of the PODRAVINA on 26 May 2004 while the ship was moored in Wilmington, North Carolina do not show scrapes or scratches on the hull that are consistent with having been involved in a recent collision.

Post-Casualty

40. All three crewmembers of the AVA CLAIRE were tested for drugs and alcohol after returning to shore. The results of the breath alcohol test conducted by representatives from the Coast Guard were as follows: [redacted] BAC wa[redacted] [redacted] BAC was [redacted] BAC wa[redacted] The results of the drug testing, which was conducted in accordance with 46 CFR Part 16 was a follows:

[redacted] were [redacted] for all drugs that were tested for; [redacted] tested [redacted] for [redacted] and [redacted] for the other drugs that were tested for.

41 [redacted] admitted to, and the crew confirmed, that he had been drinking beer while they were working gear on the AVA CLAIRE. He also stated that he recovered and drank some additional cans of beer while they were in the raft. He did not admit to using controlled drugs while on the AVA CLAIRE or in the period between being rescued and when he provided a urine sample.

Conclusions

1. It is concluded that the AVA CLAIRE was sunk as the result of a high-energy collision with another vessel that was not immediately identified.

2. It is concluded that the EPIRB on the AVA CLAIRE was knocked free of its mounting bracket by the force of the collision and began transmitting upon entering the water.

3. Based on the visual description provided by the crew, the ECDIS information obtained from the NORASIA ALYA and the Coast Guard's AIS information, it is concluded that the NORASIA ALYA collided with the AVA CLAIRE sometime between 1230Q / 1630Z and 1240Q / 1640Z. It is further concluded that neither the PODRAVINA nor the GULD FALK were involved in this collision.

4. There is evidence to suggest that the AVA CLAIRE was in violation of the 72 COLREGS in that sound signals were not being sounded as required by 35(d).

5. There is evidence to suggest that the NORASIA ALYA was in violation of the 72 COLREGS, Rule 19(b) in that the vessel was proceeding at 22 knots in very heavy fog. Further, there is evidence to suggest that the NORASIA ALYA was in violation of the 72 COLREGS, Rule 5 in that the AVA CLAIRE was not detected by the ship's crew either before or after the collision. Further, there is evidence to suggest that the NORASIA ALYA was in violation of the 72 COLREGS, Rule 35(a) in that sound signals were not being sounded as required.

6. There is evidence to suggest that the AVA CLAIRE was operating in violation of 46 C.F.R. § 25.26-5(a) in that the vessel was not fitted with a Category I float free EPIRB.

7. It is concluded that [redacted] was [redacted] in that he tested [redacted] for [redacted] and his BAC wa[redacted] however, these factors did not contribute to this marine casualty.

TIMELINE BASED ON INTERVIEWS CONDUCTED 26 MAY 2004
U/W TO GROUNDS
6 HRS
1ST SET
3 HRS
2ND SET
U/W TO GROUNDS
6½-7 HRS
1ST SET
1½ HRS
2ND SET
1ST SET
1½-2 HRS
2ND SET
45 MIN
2ND SET
1ST BRIDGE
SIGNAL
HELICOPTER ON-SCENE
VOTE: ON CG-2692
THAT CREW RETURNS
WITHIN 2-3 HRS.
CG-2692 DATED
25 MAY 2004.